

The Retailers' Occupation Tax Act provides an exemption for farm machinery and equipment that is used or leased for use primarily (over 50% of the time) in production agriculture or for use in State or federal agricultural programs. See 86 Ill. Adm. Code 130.305. (This is a GIL).

March 20, 2000

Dear Xxxxx:

This letter is in response to your letter dated February 22, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

Recently, I purchased a new farm tractor from SELLER.

When the forms were being completed, I noticed that a sales tax was charged. This was unusual, during past purchases I was not charged this tax. He informed me that tax has to be charged and collected. To receive a refund I would have to apply to your agency and request the appropriate form.

The tractor I purchased was a 4100 with an end loader. This tractor replaces one used to clean stalls, haul grain and hay, contouring paddock areas, level arenas, general farm care and maintenance.

Purchase order number	--	####
Purchase date	--	####
Tax	--	687.50
Purchase date		

The Retailers' Occupation Tax Act provides an exemption for farm machinery and equipment that is used or leased for use primarily (over 50% of the time) in production agriculture or for use in State or federal agricultural programs. For your information, we have enclosed a copy of 86 Ill. Adm. Code 130.305, which is the Department's regulation concerning the Farm Machinery and Equipment Exemption. Please note that the type of item is not the only consideration in determining whether or not it will qualify for the exemption. Whether a specific item qualifies for the exemption also depends on how the item will be used by the purchaser.

Machinery means major mechanical machines or major components thereof contributing to the production agriculture process or used primarily in State or federal agricultural programs. Farm

machinery would generally include tractors, combines, balers, irrigation equipment, cattle and poultry feeders, but not improvements to real estate such as fences, barns, roads, grain bins, silos, and confinement buildings.

Please note that purchasers who claim the farm machinery and equipment exemption are required to provide the certification or blanket certification described in subsection (m) of Section 130.305 to their suppliers. Purchasers may create their own exemption certificates that contain the information contained in subsection (m) or they may use the enclosed Form ST-587 Equipment Exemption Certificate.

If a retailer pays an amount of tax under the Retailers' Occupation Tax Act that is not due, either as a result of a mistake of fact or an error of law, that retailer may file a claim for credit with the Department. Payment of tax on qualifying exempt farm machinery and equipment would be considered a mistake of fact. No credit shall be given unless the retailer shows that he has either borne the burden of the tax or that he has unconditionally repaid the amount of tax to the purchaser from whom it was collected. See the enclosed copy of 86 Ill. Adm. Code 130.1501.

In your situation, if you determine that the tractor is used primarily in production agriculture, you should return to the retailer that you purchased it from and give that retailer an exemption certificate. You may also provide the retailer with a copy of this letter. Once the retailer refunds the amount of tax paid to you, the retailer can request a credit from the Department because the retailer has then borne the burden of the tax. Illinois law does not require the retailer to refund the amount of tax paid by you. Whether or not the retailer agrees to refund the amount of tax paid and apply for a credit is a matter of business practice between that retailer and the purchaser.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk
Enc.